IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 16656 of 1995

Between:

M/s. Dwaraka Pershad Radhey Ramanlal rep. by Mr. Mahan Das Agarwal, Partner R/o Hyderabad **..... PETITIONER**

AND

1 Govt. of A.P. rep. by Prl. Secretary Revenue Dept. (CT), Secretariat

Buildings, Hyderabad
2 The Commissioner of Commercial Taxes Govt. of A.P., Hyderabad
3 The Commercial Tax Officer Market Street Circle, Secunderabad Divn,. Sec'

bad
4 The Chief Engineer (P) (I) R & D, Picket, Secunderabad
5 The Chief Engineer Hyderabad Zone Parade Grounds, Secunderabad
6 The Commander, Works Engineer (Air Force) Mudford, Secunderabad
7 The Divisional Railway Manager Hyderabad Division (MG)
South Central Railways, Secunderabad
8 The Divisional Railways Manager Secunderabad Division (BG)
South Central Railways, Secunderabad
9 The Chief Project Manager, Railway Electrification, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ order or direction more particularly a Writ of Mandamus i) declaring Section 5F, 5G and 5H of the A.P.G.S.T.Amendment Act 22 of 1995 and Rules 6(3) of A.P.G.S.T. Rules as ultra-vires under Articles 14, 19(1)(f) and 21 of the Constitution of India, (ii) direct the State Govt. of A.P. to levy and collect sales tax inrespect of materials used in works contract only at the rates applicable under various schedules in terms of Section 5(1) of the A.P.G.S.T.Act and not under Sec.5F of A.P.G.S.T. Act and (iii) direct the respondents not to deduct tax at sources in pursuance of the sec. 5H on the amounts payable to the petitioner or in alternative direct the respondents to deduct the tax at source at specified rates applicable under various schedules only in respect of materials or goods used in execution

of works contract.

Counsel for the Petitioner:MR.DANTU.SRINIVAS, Advocate.

Counsel for the Respondents No. 1 to 5 : GP FOR COMMERCIAL TAXES

Counsel for the Respondent No.6 : Mr.K.Ramulu

Counsel for the Respondents No.7 to 9 : Mr.T.Rama Krishna Rao

The Court made the following :

ORDER : (per Sri Bilal Nazki, J)

Learned Counsel for both the parties submit that the controversy in this Writ Petition is covered by a judgment of this Court in a batch of Writ Petitions, reported in *Gannon Dunkerley & others Vs. State of Andhra Pradesh.* In view of this statement, we dispose of the Writ Petition in terms of the judgment referred to above.

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(BILAL NAZKI, J)

17th August, 2004.

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(S.ANANDA REDDY, J)

ajr

To

1 The Prl. Secretary Revenue Dept. (CT), Government of A.P., Secretariat

Buildings, Hyderabad
2 The Commissioner of Commercial Taxes Govt. of A.P., Hyderabad
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South Central Railways, Secunderabad
9 The Chief Project Manager, Railway Electrification, Vijayawada.

10 Two C.Cs. to the G.P. for Commercial Taxes, High Court

Buildings, Hyderabad (O.U.T)

11 Two C.D. copies.